IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 13540 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE J.M.PANCHAL

THE HON'BLE SMT. JUSTICE ABHILASHA KUMARI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SHILALEKH FLATS OWNERS ASSOCIATION - Petitioner
Versus
TORRENT POWER AEC LTD. & 3 - Respondents

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Appearance :
MR MEHUL SHARAD SHAH for Petitioner.
MR RM CHHAYA for respondent No.2.
MR VIPUL M.PANCHOLI for respondent Nos.3 & 4

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CORAM : HONOURABLE MR.JUSTICE J.M.PANCHAL
and
HON'BLE SMT. JUSTICE ABHILASHA KUMARI

Date : 31/07/2006

ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE J.M.PANCHAL)

Leave to amend the cause is granted.

Rule. Mr.R.M.Chhaya, learned counsel, waives service of notice on behalf of the respondent No.2. Mr.Vipul M.Pancholi, learned counsel, waives service of notice on behalf of the respondent Nos.3 & 4. Though the respondent No.1 is duly served with notice issued to it in this petition, it has neither appeared through its Lawyer nor through its constituted agent nor it has filed affidavit-in-reply controverting the averments made in the petition. Under the circumstances, this Court is of the opinion that it is not necessary for the petitioner to effect service of notice of rule issued in this petition upon the respondent No.1. Having regard to the facts of the case, the petition is taken up for final disposal today.

2. By filing this petition under Article 226 of the Constitution, Mr. Ramchandra Singhal, who is President of Shilalekh Flats Owners' Association, has prayed to issue an appropriate writ or order, directing the respondent No.1 i.e. Torrent Power

A.E.C.Limited to grant independent domestic electric connection to the remaining residents of Block Nos.A to E of Shilalekh Flats, whose names are mentioned in Annexure-C to the petition and who were not provided electric connection earlier pursuant to the application that was made by the residents of Block Nos. A to E.

3. The petitioner i.e. Mr.Ramchandra Singhal is President of Shilalekh Flats Owners' Association. It may be mentioned that Shilalekh Flats were constructed by Labh Construction and Industries Limited during the year 1997-98. In all, there are 13 Towers/high-rise buildings in the society consisting of 460 flats. Out of 460 flats, approximately 250 flats are occupied by members, who are residing therein with their families. The society was earlier registered as Anand Sagar Cooperative Housing Society Limited, but, after some time, it was registered as Shilalekh Hindu Cooperative Housing Society. According to the petitioner, earlier the management of the society

was being looked-after by the Builder, but as he was not doing the management properly, the members formed Shilalekh Flats Owners' Association and got it registered for maintenance of the society. According to the petitioner, the builder had installed fire-safety-measures for all 13 Towers of Shilalekh Flats, and after visiting the site and inspecting the same, the Ahmedabad Municipal Corporation had issued 'No Objection Certificate', copy of which is produced by the petitioner along with this petition. As far as Block Nos. F to M are concerned, the Association through its President had moved Special Civil Application No. 10525 of 2006 to direct the respondent No.1 to provide individual electric connection to the members of those Blocks. Therein, the respondent No.3 had filed an Undertaking on May 6, 2006 that he would approach the Ahmedabad Municipal Corporation for seeking Building Use Permission in respect of all the 13 Towers of Shilalekh Flats (Shilalekh Hindu Cooperative Housing Society). In view of the said

Undertaking and other facts, the petition was allowed by judgment dated June 12, 2006 and necessary directions were issued to the respondent No.1 to provide domestic electric connection to the residents of Block Nos.F to M of Shilalekh Flats. It may be mentioned that though in the said petition it was mentioned by the petitioner that the Ahmedabad Electricity Company had allowed individual electric connection to the residents of Block Nos.A to E, the petitioner has averred in the present petition that it was noticed that few members of Block Nos.A to E, whose names are mentioned in Annexure-C to the petition, were handed over Possession-Letters, but they are not staying in the flats allotted to them in absence of electricity connection. Under the circumstances, the petitioner has filed the instant petition and claimed relief to which reference is made earlier.

4. The petition was placed for admission hearing

before the Court on July 17, 2006 and after hearing the learned counsel for the petitioner, notice was issued to the respondents making it returnable on July 27, 2006.

5. Today, during the course of hearing of the petition, Mr.Harshad Vaghela i.e. Developer/Director of Labh Construction and Industries Limited has filed affidavit-in-reply on his behalf as well as on behalf of the respondent No.4. Therein, it is mentioned that in view of the Undertaking, which was filed by him in Special Civil Application No.10525 of 2006, he has filed an application before the Ahmedabad Municipal Corporation for seeking Building Use Permission on July 17, 2006. Along with his reply, he has produced copy of the application submitted by him before the Ahmedabad Municipal Corporation for obtaining Building Use Permission, at Annexure-R/II.

6. This Court has heard Mr.Mehul Sharad Shah,

learned counsel for the petitioner as well as Mr.R.M.Chhaya, learned counsel for the respondent No.2, and Mr.Vipul M.Pancholi, learned counsel for the respondent Nos.3 & 4. This Court has also considered the documents forming part of the petition.

7. From the record of the case, it is evident that certain members of Block Nos.A to E, who are having Possession-Letters, are not able to occupy their flats because electricity connection is not supplied to their flats. Under the circumstances, the petitioner has filed the instant petition. The record also makes it very clear that pursuant to direction dated June 12, 2006 issued in Special Civil Application No.10525 of 2006 and Undertaking dated May 6, 2006 filed by him, the respondent No.3 has applied to the Ahmedabad Municipal Corporation for obtaining Building Use Permission. It may be mentioned that by judgment dated June 12, 2006 rendered in Special Civil Application No.10525 of 2006, the respondent No.1

was directed to provide domestic electricity connection to the residents of Block Nos.F to M of Shilalekh Flats within two weeks from the date of the said judgment, on usual terms and conditions and the learned counsel for the petitioner has informed the Court that pursuant to the said direction, the respondent No.1 has provided domestic electricity connection to the residents of Block Nos.F to M of Shilalekh Flats. Under the circumstances, this Court is of the opinion that interest of justice would be served if following directions are issued:

(1)As the respondent No.3 has already approached the Ahmedabad Municipal Corporation for seeking Building Use Permission, the respondent No.1 is directed to provide domestic electricity connection to the flats of those residents of Block Nos.A to E of Shilalekh Flats (Shilalekh Hindu Cooperative Housing Society) whose names are mentioned in Annexure-C to the petition

within two weeks from today, on usual terms and conditions.

(2)In case Building Use Permission applied for by the respondent No.3 is refused by the Ahmedabad Municipal Corporation, the Ahmedabad Municipal Corporation shall inform the respondent No.1 i.e. Torrent Power A.E.C.Limited as well as the petitioner, and thereupon, it would be open to the respondent No.1 to disconnect the electricity supply given to the residents of Block Nos.A to E of Shilalekh Flats (Shilalekh Hindu Cooperative Housing Society) pursuant to this order immediately.

Subject to above-referred to directions, rule is made absolute. There shall be no order as to costs. Direct Service is permitted.

[J.M.PANCHAL,J.]

[SMT.ABHILASHA KUMARI,J.]

(patel)